(Title 26, U. S. C. A., Chapter 36, Sub-Chapter B—Lien for Taxes.)

(1) § 3670. Property Subject to Lien.

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person. 53 Stat. 448.

(1) § 3672. Validity Against Mortgagees, Pledgees, Purchasers, and Judgment Creditors.

(a) Invalidity of lien without notice. Such lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

(1) Under State or Territorial laws. In accordance with the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law provided for the filing of such notice:

(2) Article 10, Chap. 38, Code West Virginia, Federal Tax Liens.

§ 1. Recordation of Federal Tax Lien; Release; Fee.—Pursuant to the authority of section three thousand one hundred and eighty-six of the Revised Statutes of the United States, passed July thirteen, eighteen hundred and sixty-six, and acts of congress amendatory thereof (United States Code, Title 26, chapter 3, section 115), notices of Federal tax liens and certificates discharging such liens may be filed in the office of the clerk of the county court of one or more of the counties of this State. The clerk of the county court of every county of this State shall keep in his office in a well-bound book a federal tax lien docket, in which he shall, upon the filing in his office of any notice of a lien upon the property of any person in favor of the United States for the amount of any tax, including any interest, penalty, additional amount, or additions to such tax, to-

gether with any costs that may accrue in addition thereto, record such notice without delay. He shall index such notice in the name of the person against whom the lien is claimed. No such tax shall be a valid lien as against any mortgagee, purchaser or judgment creditor, until such notice shall be filed in the office of the clerk of the county court of the county or counties in which the property subject to such lien is situated.

The clerk of such county court shall, upon the filing in his office of any release or partial release of such lien issued by the collector of internal revenue, record the same and make proper marginal notation thereof in such federal tax lien docket. No fee shall be charged by such clerk for recording such notice of lien, but he shall charge a fee of twenty-five cents for recording such release or partial release.

(3) (Section 82, of Article 1, Chapter 31, Code West Virginia).

§82. Receivers for Corporations.—When a corporation expires or is dissolved, or before its expiration or dissolution, upon sufficient cause being shown therefor, any such court as is mentioned in the preceding section may, on application of a creditor, stockholder or member, appoint a receiver to take charge of and administer its assets; and, whether such receiver be appointed or not, may make such orders and decrees and award such injunctions in the cause as justice and equity may require. This section shall apply to corporations heretofore or hereafter chartered by another state which may have done business or acquired property or contracted debts in this State, and any of whose creditors or stockholders or their personal representatives, or debtors, reside in this State; and the circuit court of any county wherein such creditor, stockholder, or their personal representatives, or person indebted to the corporation, may reside, or wherein such assets or property or any part thereof may be, shall afford such relief as is appropriate under this and the preceding section.

(N. B. The court referred to in the above quoted section is the circuit court of the county in which the principal

office or place of business of the corporation is situated.) (Note by counsel for petitioner.)

(4) (Chap. 33, Art. 13, Section 12, Acts First Ex. Sess. 1933—Gross Sales Tax.)

(a) Sec. 12. A tax due and unpaid under this article shall be a debt due the state and shall be a lien upon the property used in the business or occupation upon which it is imposed. The lien shall have the same priority as the lien of the general property tax. A penalty of five per cent of the tax shall be added for any default for thirty days or less and for each succeeding thirty days elapsing before payment there shall be added an additional penalty of one per cent. The additional one per cent penalty shall not apply until a ten day notice of delinquency shall have been sent to the taxpayer.

(4) Chap. 106, Section 12, Acts 1937—Gross Sales Tax.)

(b) Sec. 12. Lien of Tax Due and Unpaid. A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon all property used in the business or occupation upon which such tax is imposed and said lien shall have priority over all other liens and obligations except those due the United States. A penalty of five per cent of the tax shall be added for any default for thirty days or less, and for each succeeding thirty days elapsing before payment there shall be an additional penalty of one per cent.

(4) (Chap. 120, Section 12, Acts 1939—Gross Sales Tax.)

(c) Sec. 12. Lien of Tax Due and Unpaid. A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon all property used in the business or occupation upon which such tax is imposed and said lien shall have priority over all other liens and obligations except those due the United States. A penalty of five per cent of the tax shall be added for any default for thirty days or less, and for each succeeding thirty days elapsing before payment there shall be an additional penalty of one per

cent, all of which penalties shall be secured by the lien herein provided.

(4) (Chap. 108, Art. 15, Section 17, Acts 1937—Consumers Sales Tax.)

Sec. 17. Lien of Tax; Penalties. A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon all of the property of the taxpayer. The lien shall have priority over all other liens and obligations except those due the United States.

A taxpayer who fails to file his return and remit the tax at the time required by this article shall, in addition to all other penalties, pay a penalty of six per cent of the amount of the tax collected during the period reported. For each succeeding thirty days elapsing before payment there shall be added an additional penalty of one per cent. If the taxpayer is an association, or corporation, the officers thereof whose duty it is to make the return and pay the tax shall be personally liable, jointly and severally, for any default on the part of the corporation.

(5) (Article 3. Conditional Sales. Chapter 40, Code West Virginia).

§ 1. Definition of Terms.—In this article "conditional sale" means: (a) Any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; * * *

§ 2. Primary Rights of Buyer.—The buyer shall have the right, when not in default, to retain possession of the goods, and he shall also have the right to acquire the property in the goods on the performance of the conditions of the contract. The seller shall be liable to the buyer for the breach of all promises and warranties, expressed or implied, made in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

§ 3. Primary Rights of Seller.—The buyer shall be liable to the seller for the purchase price, or for installments

thereof, as the same shall become due, and for breach of all promises made by him in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

§ 4. Conditional Sales Valid Except as Otherwise Provided.—Every provision in a conditional sale reserving property in the seller after possession of the goods is delivered to the buyer, shall be valid as to all persons, except as hereinafter otherwise provided.

§ 5. Conditional Sales Void as to Certain Persons.—Every provision in a conditional sale reserving property in the seller shall be void as to any purchaser from or creditor of the buyer, who, without notice of such provision, purchases the goods or acquires by attachment or levy or otherwise a lien upon them, before the contract or a copy thereof shall be filed as hereinafter provided, unless such contract or copy is so filed within ten days after the making of the conditional sale.

§ 6. Place of Filing; Acknowledgment Not Necessary; Exceptions.—The conditional sale contract or copy shall be filed in the office of the clerk of the county court in the county in which the goods are first kept for use by the buyer after the sale. It shall not be necessary to the validity of such conditional sale contract, or in order to entitle it to be filed, that it be acknowledged or attested. This section shall not apply to the contracts described in section eight of this article.

§ 11. Refiling.—The filing of conditional sale contracts provided for in sections five, six and seven of this article shall be valid for a period of three years only. The recording of the contracts provided for by section eight of this article shall be valid for a period of fifteen years only. The validity of the filing or recording may in each case be extended for successive additional periods of one year from the date of refiling or rerecording by filing or recording in the proper filing district a copy of the original contract within thirty days next preceding the expiration of each period, with a statement attached, signed by the seller, showing that the contract is in force and the amount re-

maining to be paid thereon. Such copy, with statement attached, shall be filed or recorded in the same manner as a contract or copy for the first time, and the filing or recording officer shall be entitled to a like fee as upon the original filing or recording.

§ 16. Retaking Possession.—When the buyer shall be in default in the payment of any sum due under the contract, or in the performance of any other condition which the contract requires him to perform in order to obtain the property in the goods, or in the performance of any promise, the breach of which is by the contract expressly made a ground for the retaking of the goods, the seller may retake possession thereof. Unless the goods can be retaken without breach of the peace, they shall be retaken by legal process; but nothing herein shall be construed to authorize a violation of the criminal law.

(Sections 1 and 4, Article 5, Chapter 58, Code of West Virginia.)

(6) (1) When Appeal or Writ of Error Lies.—A party to a controversy in any circuit court may obtain from the supreme court of appeals, or a judge thereof in vacation, an appeal from, or a writ of error or supersedeas to, a judgment, decree or order of such circuit court in the following cases: (a) In civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars, wherein there is a final judgment, decree or order; * * *

(g) In any case in chancery wherein there is a decree or order dissolving or refusing to dissolve an injunction, or requiring money to be paid, or real estate to be sold, or the possession or title of property to be changed, or adjudicating the principles of the cause; * * *

(4) Time for Appeal or Writ of Error.—No petition shall be presented for an appeal from, or writ of error or supersedeas to, any judgment, decree or order, whether the State be a party thereto or not, which shall have been rendered or made more than eight months before such petition is presented.